IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

OP.No. 10484 of 2003(W)

PETITIONER:

CHENGAT VIJAYAN, S/O. KRISHNAN,
CHENGAT HOUSE, AVERA, KANNUR TALUK.

BY ADV. SRI.R.PARTHASARATHY
SMT.S.LAKSHMY

RESPONDENTS:

1. THE PRINCIPAL,
GOVT. POLYTECHNIC, THOTTADA, KANNUR TALUK.

2. THE DIRECTOR OF TECHNICAL EDUCATION,
THIRUVANANTHAPURAM.

3. THE ACCOUNTANT GENERAL,
THIRUVANANTHAPURAM.

(* ADDL. R4 IMPLEADED)

4. SREEJITH M.P.
S/o. BHASKARAN, MEMAKKANDAY HOUSE,
CHERAKKAL AMSOM, ALAVIL DESOM, KANNUR DISTRICT.

(* ADDL. R4 IS IMPLEADED AS PER ORDER DTD.11.4.03 IN C.M.P.NO.20326/03)

BY ADV. SRI.A.MOHAMED MUSTAQUE
GOVERNMENT PLEADER SRI. S. DILIP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO.10249 OF 2005 IN C.M.P.NO.18064/2003
IN O.P.NO.10464 OF 2003

DISMISSED

15/6/07 Sd/-T.R.RAMACHANDRAN NAIR,JUDGE

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE WILL DATED 14.1.2001.

EXT.P2: COPY OF THE SUCCEESION CERTIFICATE ISSUED BY THE MUNSIFF COURT, KANNUR, DATED 13.6.2002.

EXT.P3: COPY OF THE LAWYER NOTICE DATED 6.1.2003.

EXT.P4: COPY OF THE REPLY SENT BY THE 1ST RESPONDENT.

EXT.P5: COPY OF THE REPLY OF THE DIRECTOR OF TECHNICAL EDUCATION DTD.17.1.2003.

EXT.P6: COPY OF THE NOTICE OF THE 3RD RESPONDENT DATED 16.6.2005.

TRUE COPY

P.A.TO JUDGE

T.R. Ramachandran Nair, J.

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O.P.NO.10484 of 2003-W

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Dated this the 15th day of June, 2007

JUDGMENT

The petitioner is the brother of deceased Sujatha who was working as a Peon in a Government Polytechnic. She expired on 6.4.2001 and consequent on her death, a crime was registered.

2. Ext.P1 is a will dated 14.1.2001 executed by the deceased disinheriting her husband. The petitioner is the beneficiary of the said will. To establish his right, he filed O.P. (SC) No.20/2001 before the Munsiff's Court, Kannur and by Ext.P2, a succession certificate has been issued and the schedule shows that it relates to an amount of Rs.71,178/- lying in the Provident Fund Account No.EDN 172465. The learned Munsiff has directed the authorities who are custodians of provident fund and gratuity amount, to release the amount with interest accrued to the petitioner on producing the succession certificate. Based on the above, the petitioner submitted an application before the first respondent on 27.6.2002 and since no action was taken on it, he caused to issue Ext.P3 lawyer notice to the authorities for taking necessary action to release the amount lying in the provident fund account of late Sujatha. Thereafter, hurdles were placed on his way by the

authorities. By Ext.P5 reply, the petitioner was directed to produce a legal heirship certificate of the revenue authorities as well as an application signed by the husband.

3. Aggrieved by the denial of the release of amount, this original petition was filed. Additional 4th respondent who was impleaded herein is the husband of late Sujatha. It appears that he had filed an application before the Munsiff's Court, seeking a review of Ext.P2 which was dismissed as per order dated 2.2.2005. Therefore, the same has become final. No counter affidavit has been filed by him disputing the averments in the original petition or the right of the petitioner to claim the amount based on Ext.P2.

4. Heard the counsel for petitioner, additional 4th respondent and the Government Pleader. Going by Ext.P5, it is seen that the application forwarded to the Accountant General (A&E) was returned stating that the application should be signed by the family member (husband) and he should also send an enquiry certificate including the details of family members with relationship to the deceased subscriber.

5. These formalities are not necessary to be followed in this case in view of the succession certificate evidenced by Ext.P2. The additional 4th respondent respondent has not filed any counter affidavit also in the matter, even though the learned counsel wanted to object the right of petitioner to collect the amount. Going by the admitted position now, Ext.P2 is one

issued by a competent civil court and therefore the petitioner is entitled to receive the amount based on the same. Additional fourth respondent did not object the issuance of Ext.P2 and the review petition has been dismissed also. In view of Ext.P2 no insistence can be made to forward an application signed by the husband (additional 4th respondent) as well as the legal heirship certificate and the like as stipulated in Ext.P5. Therefore, there will be a direction to the third respondent to process the application in accordance with law based on Ext.P2 and the amount will be disbursed to the petitioner within a period of three months from the date of receipt of a copy of this judgment. Respondents 1 and 2 should see that needful in the matter is done as directed above.

The original petition is allowed as above. No costs.

(T.R. Ramachandran Nair, Judge.)

kav/

T.R. Ramachandran Nair, J.

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O.P.NO.10484 of 2003-W

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JUDGMENT

15th day of June, 2007